

Exhibit 3

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1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION
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5 ORACLE AMERICA, INC.,)
6 Plaintiff,)
7 vs.) No. CV 10-03561 WHA
8 GOOGLE, INC.,)
9 Defendant.)
10 _____)
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17 Videotaped deposition of ERIC E. SCHMIDT, taken at
18 the offices of Google, 1600 Amphitheatre Parkway,
19 Room B43, Mountain View, California, commencing at
20 12:44 p.m., on Tuesday, August 23, 2011, before
21 Leslie Rockwood, RPR, CSR No. 3462.
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24

25 PAGES 1 - 162

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<p>1 APPEARANCES OF COUNSEL:</p> <p>2</p> <p>3 FOR THE PLAINTIFF ORACLE AMERICA, INC.:</p> <p>4 BOIES SCHILLER & FLEXNER LLP</p> <p>5 BY: DAVID BOIES, ESQ.</p> <p>6 333 Main Street</p> <p>7 Armonk, New York 10504</p> <p>8 (914) 749-8200</p> <p>9 dboies@bsfllp.com</p> <p>10</p> <p>11</p> <p>12 BY: MEREDITH R. DEARBORN, ESQ.</p> <p>13 BY: STEVEN C. HOLTZMAN, ESQ.</p> <p>14 1999 Harrison Street, Suite 900</p> <p>15 Oakland, California 94612</p> <p>16 (510) 874-1211 (Ms. Dearborn)</p> <p>17 (510) 874-1001 (Mr. Holtzman)</p> <p>18 mdearborn@bsfllp.com</p> <p>19 sholtzman@bsfllp.com</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">2</p>	<p>1 APPEARANCES OF COUNSEL (Continued):</p> <p>2</p> <p>3 FOR THE DEFENDANT GOOGLE, INC.:</p> <p>4 BY: RENNY HWANG, ESQ.</p> <p>5 BY: KENT WALKER, ESQ.</p> <p>6 GOOGLE ASSOCIATE LITIGATION COUNSEL</p> <p>7 1600 Amphitheatre Parkway</p> <p>8 Mountain View, California 94043</p> <p>9 (650) 253-2551</p> <p>10 rennyhwang@google.com</p> <p>11 kentwalker@google.com</p> <p>12</p> <p>13</p> <p>14 VIDEOGRAPHER: Aric Kerhoulis</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">4</p>
<p>1 APPEARANCES OF COUNSEL (Continued):</p> <p>2</p> <p>3 FOR THE PLAINTIFF ORACLE AMERICA, INC.:</p> <p>4 MORRISON & FOERSTER LLP</p> <p>5 BY: RUCHIKA AGRAWAL, ESQ.</p> <p>6 755 Page Mill Road</p> <p>7 Palo Alto, California 94304-1018</p> <p>8 (650) 813-4228</p> <p>9 ragrawal@mofo.com</p> <p>10</p> <p>11</p> <p>12 FOR THE DEFENDANT GOOGLE, INC., AND THE WITNESS</p> <p>13 KEKER & VAN NEST, LLP</p> <p>14 BY: ROBERT VAN NEST, LLP</p> <p>15 BY: CHRISTA ANDERSON, ESQ.</p> <p>16 633 Battery Street</p> <p>17 San Francisco, California 94111</p> <p>18 (415) 773-6635 (Mr. Van Nest)</p> <p>19 (415) 676-2276 (Ms. Anderson)</p> <p>20 rvannest@kvn.com</p> <p>21 canderson@kvn.com</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">3</p>	<p>1 TUESDAY, AUGUST 23, 2011; MOUNTAIN VIEW, CALIFORNIA</p> <p>2 12:44 P.M.</p> <p>3 ---oOo---</p> <p>4 THE VIDEOGRAPHER: Good afternoon. We are on</p> <p>5 the record at 12:44 p.m. on August 23rd, 2011. This is 12:44:15</p> <p>6 the videotaped deposition of Eric Schmidt.</p> <p>7 My name is Aric Kerhoulis, here with our</p> <p>8 court reporter, Leslie Rockwood. We are here from</p> <p>9 Veritext National Deposition and Litigation Services at</p> <p>10 the request of counsel for plaintiff. 12:44:36</p> <p>11 This deposition is being held at the office</p> <p>12 of Google at 1600 Amphitheater Parkway in the city of</p> <p>13 Mountain View, California. The caption of this case is</p> <p>14 Oracle America, Incorporated, vs. Google, Incorporated.</p> <p>15 Case Number 10-03561. 12:44:54</p> <p>16 Please note that audio and video recording</p> <p>17 will take place unless all parties agree to go off the</p> <p>18 record.</p> <p>19 At this time will counsel and all present</p> <p>20 please identify themselves for the record. 12:45:08</p> <p>21 MR. BOIES: David Boies of Boies, Schiller &</p> <p>22 Flexner, representing Oracle.</p> <p>23 MS. DEARBORN: Meredith Dearborn, Boies,</p> <p>24 Schiller & Flexner, on behalf of Oracle America.</p> <p>25 MR. HOLTZMAN: Steve Holtzman, Boies, 12:45:23</p> <p style="text-align: right;">5</p>

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<p>1 Schiller & Flexner, for Oracle.</p> <p>2 MR. VAN NEST: Bob Van Nest, Keker & Van</p> <p>3 Nest, for Google.</p> <p>4 MS. ANDERSON: Christa Anderson for Google.</p> <p>5 MR. WALKER: Kent Walker for Google. 12:45:34</p> <p>6 MR. HWANG: Renny Hwang, Google.</p> <p>7 MS. AGRAWAL: Ruchika Agrawal for Oracle.</p> <p>8 THE VIDEOGRAPHER: The court reporter will</p> <p>9 please swear in the witness, and we can proceed.</p> <p>10 THE REPORTER: Would you raise your right</p> <p>11 hand, please.</p> <p>12 You do solemnly state that the evidence you</p> <p>13 shall give in this matter shall be the truth, the whole</p> <p>14 truth and nothing but the truth, so help you God.</p> <p>15 THE WITNESS: I do.</p> <p>16 THE REPORTER: Thank you.</p> <p>17 EXAMINATION</p> <p>18 BY MR. BOIES:</p> <p>19 Q. Good afternoon, Mr. Schmidt.</p> <p>20 A. Hi. 12:45:54</p> <p>21 Q. You were employed by Sun Microsystems from</p> <p>22 1997 -- 1977 to 1997; is that correct?</p> <p>23 A. If I may correct you, 1983 until 1997.</p> <p>24 Q. Thank you. You were employed by Sun</p> <p>25 Microsystems from 1983 to 1997? 12:46:17</p> <p style="text-align: right;">6</p>	<p>1 strategy, it's a platform, it's a set of partnerships,</p> <p>2 it's a handset alliance, it's a piece of software. So</p> <p>3 it's many things.</p> <p>4 And I'm sorry, could you restate your</p> <p>5 question? 12:47:51</p> <p>6 Q. BY MR. BOIES: Sure. Android is, among other</p> <p>7 things, a platform; correct?</p> <p>8 A. Yeah.</p> <p>9 Q. And could you explain for the record what you</p> <p>10 mean by "platform"? 12:48:00</p> <p>11 A. So in computer science, a platform is usually</p> <p>12 referred to as a thing on which other people build things</p> <p>13 of value.</p> <p>14 Q. And the people that would build things of</p> <p>15 value on an Android platform would include, but not be 12:48:16</p> <p>16 limited to, Google; correct?</p> <p>17 A. That's correct.</p> <p>18 Q. And one of the values of the Android platform</p> <p>19 to Google is that other people will build things of value</p> <p>20 on that platform; correct? 12:48:32</p> <p>21 A. That is correct.</p> <p>22 Q. What are the ways that the Android platform</p> <p>23 contributes value to Google, the company?</p> <p>24 MR. VAN NEST: Objection. Form.</p> <p>25 THE WITNESS: Ultimately Android benefits the 12:48:54</p> <p style="text-align: right;">8</p>
<p>1 A. That is correct.</p> <p>2 Q. And your last position at Sun was chief</p> <p>3 technical officer; is that correct?</p> <p>4 A. That is correct.</p> <p>5 Q. And after leaving Sun, you became chief 12:46:30</p> <p>6 executive officer and chairman of Novell; is that</p> <p>7 correct?</p> <p>8 A. Yes.</p> <p>9 Q. And you served in that capacity from 1997 to</p> <p>10 2001? 12:46:45</p> <p>11 A. Yes.</p> <p>12 Q. And in 2001, you became CEO of Google;</p> <p>13 correct?</p> <p>14 A. That is correct.</p> <p>15 Q. And you continued in that position until 12:46:54</p> <p>16 January of 2011; is that correct?</p> <p>17 A. April of 2011.</p> <p>18 Q. April of 2011. And you are currently</p> <p>19 chairman of Google's executive board; is that correct?</p> <p>20 A. That is correct. 12:47:08</p> <p>21 Q. Let me begin by asking you to list the ways</p> <p>22 that you believe that Android contributes value to</p> <p>23 Google.</p> <p>24 MR. VAN NEST: Objection. Form.</p> <p>25 THE WITNESS: So Android is a -- is a 12:47:26</p> <p style="text-align: right;">7</p>	<p>1 Google strategy around cloud computing. Ultimately more</p> <p>2 people will use or may use Google services, or they may</p> <p>3 not, if the Android platform comes with those Google</p> <p>4 services.</p> <p>5 So there are a number of sort of indirect 12:49:16</p> <p>6 benefits from that platform which inure from the nature</p> <p>7 of its Open Source approach.</p> <p>8 Q. BY MR. BOIES: Now, when you refer to</p> <p>9 indirect benefits, am I correct that Google makes the</p> <p>10 software that represents Android available without 12:49:41</p> <p>11 charge?</p> <p>12 A. It's -- it would be technically correct to</p> <p>13 say that we make the software available under a license,</p> <p>14 and that license is known as the Apache license, and it</p> <p>15 does not include a charge. 12:49:58</p> <p>16 Q. Does the license pursuant to which you make</p> <p>17 Android available include conditions or requirements?</p> <p>18 A. There are some.</p> <p>19 Q. What are the conditions and requirements of</p> <p>20 the license that Google uses to make Android available 12:50:19</p> <p>21 that you believe are important?</p> <p>22 A. Well, there's a long list. The license</p> <p>23 itself is lengthy, and I would have to refer to it to be</p> <p>24 precise. But certainly one of them is the fact that</p> <p>25 people are free to modify as they see fit. They can use 12:50:39</p> <p style="text-align: right;">9</p>

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<p>1 other platforms and services as they wish. As I</p> <p>2 understand it -- and I might get this slightly wrong --</p> <p>3 the license asks that you -- if you make a change, you</p> <p>4 have to publish that change back into the same community.</p> <p>5 The general term for this area is called Open 12:51:04</p> <p>6 Source, is what I was referring to.</p> <p>7 Q. And when you say "publish the change back</p> <p>8 into the community," you mean make it available to the</p> <p>9 community without charging people for it?</p> <p>10 A. Under similar terms. 12:51:16</p> <p>11 Q. Under similar terms, the Apache license?</p> <p>12 A. That's correct. That is my understanding.</p> <p>13 Q. All right. And that was your understanding</p> <p>14 when you were the Google CEO; correct?</p> <p>15 A. Uh-huh, yes. Yes. 12:51:27</p> <p>16 Q. Now, how does making this Android platform</p> <p>17 available -- you're not getting money directly for it.</p> <p>18 It's costing you money to do it; correct?</p> <p>19 A. Uh-huh.</p> <p>20 Q. So how do you plan to make a profit from 12:51:46</p> <p>21 that?</p> <p>22 MR. VAN NEST: Objection. Form.</p> <p>23 THE WITNESS: Well, Google is a company of</p> <p>24 many different initiatives, some of which are highly</p> <p>25 profitable. So, for example, our text search ads 12:51:59</p> <p style="text-align: right;">10</p>	<p>1 I'll describe the calculation. So we pay their salaries.</p> <p>2 You assume that they cost \$150,000 a year, and you assume</p> <p>3 that we have that for three or four years. So use round</p> <p>4 numbers. 200 and three of the years, that would be 600</p> <p>5 man years. So whatever that works out to be. Multiply 12:54:00</p> <p>6 that out times 150,000.</p> <p>7 And there are probably some additional</p> <p>8 license fees that might have been paid along the way,</p> <p>9 which I don't remember.</p> <p>10 Q. BY MR. BOIES: Now, in addition to the 12:54:14</p> <p>11 engineers that are included in this, are there other</p> <p>12 people in Google who devote time and effort and expense</p> <p>13 to Android?</p> <p>14 MR. VAN NEST: Objection. Form.</p> <p>15 THE WITNESS: I'm sure that there are, but I 12:54:35</p> <p>16 don't know what the number would be.</p> <p>17 Q. BY MR. BOIES: Has Google, at any time that</p> <p>18 you are aware of, attempted to make an estimate of how</p> <p>19 much it would cost to develop and distribute Android?</p> <p>20 MR. VAN NEST: Objection. Form. 12:55:06</p> <p>21 THE WITNESS: I'm not aware of one.</p> <p>22 Q. BY MR. BOIES: Has Google ever made any</p> <p>23 effort that you are aware of to estimate the dollar value</p> <p>24 to Google of Android?</p> <p>25 A. I'm not aware of one. 12:55:30</p> <p style="text-align: right;">12</p>
<p>1 business, and others which are either things which we</p> <p>2 think are good for the world or things which will improve</p> <p>3 computer science.</p> <p>4 So at various points with Android, we've had</p> <p>5 various ideas as to where it is in that. But I think it 12:52:19</p> <p>6 would be fair to say that Android is seen as an important</p> <p>7 platform for -- for people to do new things in mobile</p> <p>8 computing. It's not articulated with a stronger answer.</p> <p>9 Q. BY MR. BOIES: Would it be accurate to say</p> <p>10 that the model Google has for Android is to make it 12:52:41</p> <p>11 available for free and to make money from advertising and</p> <p>12 the value-added services that go on top of the Android</p> <p>13 platform?</p> <p>14 A. That's a component of our strategy, yes,</p> <p>15 and -- yes. 12:53:06</p> <p>16 Q. And what would you estimate the cost to</p> <p>17 Google has been so far in developing and distributing</p> <p>18 Android?</p> <p>19 MR. VAN NEST: Objection. Form.</p> <p>20 THE WITNESS: I don't know the specific 12:53:23</p> <p>21 numbers. So I can estimate.</p> <p>22 Q. BY MR. BOIES: Your best estimate.</p> <p>23 MR. VAN NEST: Objection. Form.</p> <p>24 THE WITNESS: I would estimate that there are</p> <p>25 some number of hundreds of engineers. It's easier if 12:53:38</p> <p style="text-align: right;">11</p>	<p>1 Q. Has Google ever, insofar as you are aware,</p> <p>2 attempted to determine how much value Google could expect</p> <p>3 to get for each Android handset that was distributed?</p> <p>4 MR. VAN NEST: Objection. Form.</p> <p>5 THE WITNESS: I'm not aware of a number. 12:55:56</p> <p>6 Q. BY MR. BOIES: You, from time to time, have</p> <p>7 earnings calls or had earnings calls when you were CEO;</p> <p>8 correct?</p> <p>9 A. Yes.</p> <p>10 Q. Do you still participate in earnings calls as 12:56:18</p> <p>11 chairman of the executive board?</p> <p>12 A. I do not.</p> <p>13 Q. What were the purposes of the earnings calls</p> <p>14 that you participated in?</p> <p>15 A. As I understand, they are traditional in 12:56:32</p> <p>16 large public companies.</p> <p>17 Q. And is it your understanding that a primary</p> <p>18 purpose of it is to speak to analysts that follow</p> <p>19 Google's stock?</p> <p>20 A. They are on the call, absolutely. 12:56:52</p> <p>21 Q. And you understand that they will be taking</p> <p>22 into account things that you say in terms of deciding</p> <p>23 whether or not to recommend that investors purchase</p> <p>24 Google stock?</p> <p>25 A. Yes. 12:57:08</p> <p style="text-align: right;">13</p>